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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,939	03/08/2005	Ulrich Mueller	267013US0PCT	7566

22850 7590 10/29/2010
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

WOOD, ELIZABETH D

ART UNIT	PAPER NUMBER
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1732

NOTIFICATION DATE	DELIVERY MODE
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10/29/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/526,939	Applicant(s) MUELLER ET AL.	
	Examiner Elizabeth D. Wood	Art Unit 1732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 50-60 and 63-70 is/are pending in the application.
- 4a) Of the above claim(s) 68-70 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 50-60 and 63-67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 9, 2010 has been entered.

Specification

The examiner has not checked the specification to the extent necessary to determine the presence of **all** possible minor errors (grammatical, typographical and idiomatic). Cooperation of the applicant(s) is requested in correcting any errors of which applicant(s) may become aware of in the specification, in the claims and in any future amendment(s) that applicant(s) may file.

Applicant(s) is also requested to complete the status of any copending applications referred to in the specification by their Attorney Docket Number or Application Serial Number, **if any**.

The status of the parent application(s) and/or any other application(s) cross-referenced to this application, if **any**, should be updated in a timely manner.

Election/Restriction

Claims 68-70 remain withdrawn from consideration. Applicant indicates that rejoinder will be requested upon indication of allowable subject matter. It is pointed out

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that rejoinder will be automatic **provided** the withdrawn claims directly depend from or include all limitations of the elected claims, and provided that the application is not under final rejection, because at such point in the prosecution, rejoinder, search and examination of withdrawn claims may constitute a new issue before the examiner.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

All previous rejections of claims 50-60 and 63-67 are withdrawn. However, the following new rejection is applicable:

Claims 50-60 and 63-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 3,257,310 to Plank et al.

The instantly claimed invention is directed to a process for producing a zeolite comprising the steps of crystallization, separation, calcination, contact with deionized water, shaping and calcining, and the catalyst produced thereby. Some of the claims require the water contact step to take place after calcination, though claims 54-56 do not require such as the provided steps are not required to be in sequential order, and step "W" recites contact of the step "II" material with water, not contact of the step "C" material with water. Each of the claims requires that the water contact step take place at a temperature of between 120 and 175C for a time of 12 to 24 hours.

Plank et al. are relied on for the disclosure of a process for producing zeolite materials that involves the steps of crystallization, washing, optional binding that reads on the instantly claimed "shaping" steps, drying in air, followed by optional calcination at temperatures commensurate with the instant claims, and then steaming at temperatures as low as 400 F for 2 to 100 hours, which overlaps with the instantly claimed water treatment step.

The herein claimed invention differs from the instant claims primarily in that the reference does not recite that the material is contacted with deionized water. However,

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the examiner would take the position that when conducting a steaming step, the skilled artisan would not find it unobvious to employ deionized water as it would not be desirable for additional ions to interfere with the purity of the catalyst being produced. Regarding the specific order of certain steps, i.e. the time of shaping, the examiner takes the position that shaping prior to after calcination, or before washing, are all known in the art, fairly shown as conventional by prior art of record, and would not be expected to impact the final product produced in any particular way absent some very convincing showing of evidence to the contrary. The skilled artisan is more than well aware of the appropriate manner in which to incorporate a zeolitic material into a shaped body. Limitations such as the claimed UV/VIS characteristics are considered to flow from the process disclosed by Plank et al. Although Plank et al. recite a "steaming" step, it reads directly on the instantly claimed step because it overlaps in temperatures and times, and would therefore include contact with water in gaseous form. See particularly column 2-9.

Conclusion

Applicants are advised that any evidence to be provided under 37 CFR 1.131 or 1.132 and any amendments to the claims and specification should be submitted prior to final rejection to be considered timely. It is anticipated that the next office action will be a final rejection.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth D. Wood whose telephone number is 571-272-1377. The examiner can normally be reached on M-F, 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Mayes can be reached on 571-272-1234. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Elizabeth D. Wood/
Primary Examiner, Art Unit 1732

/E. D. W./
Primary Examiner, Art Unit 1732